

REMARKS

1. Amendments to the Claims

Claims 1-3 have been amended to recite “selected from the group consisting of a short peptide of at least seven amino acids and at most 10 amino acids, and oligopeptide of at least 11 amino acids and at most 100 amino acids and a longer polypeptide, wherein said polypeptide.” The specification defines the term “polypeptide fragment” as denoting short peptides of 2-10 amino acid residues, oligopeptides of 11-100 amino acid residues and longer peptides. (Specification, page 4, lines 8-10). Support for “at least seven amino acids” can be found in the specification at page 15, lines 17-21.

Claim 51 has been canceled.

No new matter has been added.

2. Claim Rejections

Applicants thank the Examiner for his careful examination of the present application and for the withdrawal of the previous rejections and objections, as detailed in the present action.

2.1 §112 Indefiniteness

The Examiner has rejected claims 1 and 46-51 for being indefinite. The Examiner states that the specification does not define the term “immunologically equivalent” for whole peptides, and thus is unclear. Applicants respectfully traverse.

Applicants submit that the term “immunologically equivalent” is clear based on the disclosure in the specification. The current claim 1 reads “[a] substantially pure polypeptide selected from the group consisting of a short peptide of at least seven amino acids and at most 10 amino acids, and oligopeptide of at least 11 amino acids and at most 100 amino acids and a longer polypeptide, wherein said polypeptide comprises an amino acid sequence encoded by a member of the *esat-6*

gene family or comprises an amino acid analogue having a sequence identity with a polypeptide encoded by a member of the *esat-6* gene family of at least 94% and at the same time being immunologically equivalent to the polypeptide encoded by a member of the *esat-6* gene family . . .”.

Applicants point out that the specification defines the term "polypeptide fragment" as denoting short peptides of 2-10 amino acid residues, oligopeptides of 11-100 amino acid residues, and longer peptides. (Specification, page 4, lines 8-10). Applicants submit that the disclosure on page 13 of the specification regarding the definition of **immunologically equivalent polypeptide fragments** applies to and clearly defines the "short peptides," "oligopeptides" and "longer peptides" recited in the amended claims. Thus Applicants submit that the term "immunologically equivalent" is clear in light of the specification and the claims. Applicants respectfully request that the Examiner withdraw the rejection.

2.2 §112 Written Description

The Examiner has rejected claim 51 as failing to comply with the written description requirement, stating that the “recitation is drawn to only DNA sequences /probes and does not support the newly claimed combination composition of a polypeptide and a nucleic acid.” Applicants submit that claim 51 has been canceled, rendering the rejection moot. Applicants request that the Examiner withdraw the rejection.

CONCLUSION

In view of the above remarks, Applicants request that the Examiner withdraw the present rejection.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson Reg. No. 30,330 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 10/723,908
Amendment dated May 20, 2008
After Final Office Action of February 20, 2008

Docket No.: 0459-0752P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: May 20, 2008

Respectfully submitted,

By

Leonard R. Svensson
Registration No.: 30,330
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant